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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,382	09/11/2003	Masaaki Kiyomiya	107156-00205	3790

7590 12/16/2005

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EXAMINER

MILLER, BRIAN E

ART UNIT	PAPER NUMBER
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2652

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,382

Applicant(s)

KIYOMIYA ET AL.

Examiner

Brian E. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This application is a CON of 09/306,572 (now USP 6,690,638) and claims 6-11 are now pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/11/05 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 6-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Nowhere in the specification is there a description of what "mounted members" are provided on the sub-frame. While some components are recited as being mounted on the main frame, the disclosure remains silent as to the sub-frame components, which would render it difficult, without undue experimentation, for one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. (a) Claim 6 recites, "wherein the mass of the sub-frame is $1/10 - 1/3$ of the mass of the main frame". From this language, it is unclear as to what encompasses the *total* weight(s) of the sub frame and main frame, since the specification (at page 8, lines 13-18) sets forth that the weight includes all mounted members, however, the claim(s) are absent this critical feature(s).

(b) Further, last line of claim 6, the phrase "not including the sub-frame mass" is misdescriptive. It is not readily apparent whether or not mounted members on the sub-frame would be encompassed by this mass as well. As written, it appears that the mass of the mounted members is $1/10-1/3$ of the mass of the main frame including mounted members, which interpretation would not be commensurate with the disclosure, and therefore renders the claim(s) indefinite. From this, the metes and bounds of the claim(s) cannot be readily ascertained at this time.

Response to Amendment

6. The amendment and remarks filed 10/11/05 have been considered, however, do not place the application in condition for allowance.

A...Applicant submits (on page 5) that claim 6 has been amended "to include the specific mounted members on the main frame."

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This statement appears misplaced, as claim 6 has not been amended in this manner.

B...Applicant further submits that claim 6 has been further amended “to remove the limitation of the sub-frame ‘including mounted members’ to correspond with the feature of the sub-frame shown in Figs. 1 and 2.”

Again, this statement appears misplaced, as claim 6 has not been amended in this manner.

C...The Examiner reiterates that the newly added language still does not identify what specific mounted members are on each frame member. While new claim 11 identifies some elements on the main frame, the claim(s) remain silent as to what elements are mounted on the sub frame. It is noted that the claims further do not make it clear whether these members are *all* the elements needed to operate the device, or are only some of them.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Miller whose telephone number is (571) 272-7578. The examiner can normally be reached on M-TH 7:15am-4:45pm (and every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, A. L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "B. Miller", with a long horizontal flourish extending to the right.

Brian E. Miller
Primary Examiner
Art Unit 2652

BEM

December 9, 2005